

participate in a particular environmental impact statement as a cooperating agency. If the Responsible Official for the lead bureau denies a request, or determines it is inappropriate to extend an invitation, he or she must state the reasons in the environmental impact statement. Denial of a request or not extending an invitation for cooperating agency status is not subject to any internal administrative appeals process, nor is it a final agency action subject to review under the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

(d) Bureaus should work with cooperating agencies to develop and adopt a memorandum of understanding that includes their respective roles, assignment of issues, schedules, and staff commitments so that the NEPA process remains on track and within the time schedule. Memoranda of understanding must be used in the case of non-Federal agencies and must include a commitment to maintain the confidentiality of documents and deliberations during the period prior to the public release by the bureau of any NEPA document, including drafts.

(e) The procedures of this section may be used for an environmental assessment.

§ 46.230 Role of cooperating agencies in the NEPA process.

In accordance with 40 CFR 1501.6, throughout the development of an environmental document, the lead bureau will collaborate, to the fullest extent possible, with all cooperating agencies concerning those issues relating to their jurisdiction and special expertise. Cooperating agencies may, by agreement with the lead bureau, help to do the following:

- (a) Identify issues to be addressed;
- (b) Arrange for the collection and/or assembly of necessary resource, environmental, social, economic, and institutional data;
- (c) Analyze data;
- (d) Develop alternatives;
- (e) Evaluate alternatives and estimate the effects of implementing each alternative; and
- (f) Carry out any other task necessary for the development of the envi-

ronmental analysis and documentation.

§ 46.235 NEPA scoping process.

(a) Scoping is a process that continues throughout the planning and early stages of preparation of an environmental impact statement. Scoping is required for an environmental impact statement; scoping may be helpful during preparation of an environmental assessment, but is not required (see paragraph 46.305(a) Public involvement in the environmental assessment process). For an environmental impact statement, bureaus must use scoping to engage State, local and tribal governments and the public in the early identification of concerns, potential impacts, relevant effects of past actions and possible alternative actions. Scoping is an opportunity to introduce and explain the interdisciplinary approach and solicit information as to additional disciplines that should be included. Scoping also provides an opportunity to bring agencies and applicants together to lay the groundwork for setting time limits, expediting reviews where possible, integrating other environmental reviews, and identifying any major obstacles that could delay the process. The Responsible Official shall determine whether, in some cases, the invitation requirement in 40 CFR 1501.7(a)(1) may be satisfied by including such an invitation in the notice of intent (NOI).

(b) In scoping meetings, newsletters, or by other communication methods appropriate to scoping, the lead agency must make it clear that the lead agency is ultimately responsible for determining the scope of an environmental impact statement and that suggestions obtained during scoping are only options for the bureau to consider.

§ 46.240 Establishing time limits for the NEPA process.

(a) For each proposed action, on a case-by-case basis, bureaus shall:

- (1) Set time limits from the start to the finish of the NEPA analysis and documentation, consistent with the requirements of 40 CFR 1501.8 and other legal obligations, including statutory and regulatory timeframes;

§ 46.300

(2) Consult with cooperating agencies in setting time limits; and

(3) Encourage cooperating agencies to meet established time frames.

(b) Time limits should reflect the availability of Department and bureau personnel and funds. Efficiency of the NEPA process is dependent on the management capabilities of the lead bureau, which must assemble an interdisciplinary team and/or qualified staff appropriate to the type of project to be analyzed to ensure timely completion of NEPA documents.

Subpart D—Environmental Assessments

§ 46.300 Purpose of an environmental assessment and when it must be prepared.

The purpose of an environmental assessment is to allow the Responsible Official to determine whether to prepare an environmental impact statement or a finding of no significant impact.

(a) A bureau must ensure that an environmental assessment is prepared for all proposed Federal actions, except those:

(1) That are covered by a categorical exclusion;

(2) That are covered sufficiently by an earlier environmental document as determined and documented by the Responsible Official; or

(3) For which the bureau has already decided to prepare an environmental impact statement.

(b) A bureau may prepare an environmental assessment for any proposed action at any time to:

(1) Assist in planning and decision-making;

(2) Further the purposes of NEPA when no environmental impact statement is necessary; or

(3) Facilitate environmental impact statement preparation.

§ 46.305 Public involvement in the environmental assessment process.

(a) The bureau must, to the extent practicable, provide for public notification and public involvement when an environmental assessment is being prepared. However, the methods for providing public notification and opportu-

43 CFR Subtitle A (10–1–11 Edition)

nities for public involvement are at the discretion of the Responsible Official.

(1) The bureau must consider comments that are timely received, whether specifically solicited or not.

(2) Although scoping is not required, the bureau may apply a scoping process to an environmental assessment.

(b) Publication of a “draft” environmental assessment is not required. Bureaus may seek comments on an environmental assessment if they determine it to be appropriate, such as when the level of public interest or the uncertainty of effects warrants, and may revise environmental assessments based on comments received without need of initiating another comment period.

(c) The bureau must notify the public of the availability of an environmental assessment and any associated finding of no significant impact once they have been completed. Comments on a finding of no significant impact do not need to be solicited, except as required by 40 CFR 1501.4(e)(2).

(d) Bureaus may allow cooperating agencies (as defined in § 46.225) to participate in developing environmental assessments.

§ 46.310 Contents of an environmental assessment.

(a) At a minimum, an environmental assessment must include brief discussions of:

(1) The proposal;

(2) The need for the proposal;

(3) The environmental impacts of the proposed action;

(4) The environmental impacts of the alternatives considered; and

(5) A list of agencies and persons consulted.

(b) When the Responsible Official determines that there are no unresolved conflicts about the proposed action with respect to alternative uses of available resources, the environmental assessment need only consider the proposed action and does not need to consider additional alternatives, including the no action alternative. (See section 102(2)(E) of NEPA).

(c) In addition, an environmental assessment may describe a broader range of alternatives to facilitate planning and decision-making.